# UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 32

CASTLEWOOD COUNTRY CLUB

Employer

and

STEVEN R. FREITAS, an Individual

Case 32-RD-1590

Petitioner

and

UNITE-HERE, LOCAL 2850, AFL-CIO

Union

#### REPORT ON OBJECTIONS AND NOTICE OF HEARING

Acting pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, the undersigned, having caused an investigation of the Employer's objections to the election to be conducted, hereby sets those objections for hearing.

#### The Election

The Petition in this matter was filed on March 5, 2010.<sup>2</sup> Pursuant to a Stipulated Election Agreement approved on March 16, an election by secret ballot was conducted ballot was conducted on April 2, in the following unit:

All full-time and regular part-time employees engaged in or in connection with the preparation, handling and serving of food and/or beverages, including all food and cocktail waiters and waitresses, banquet waiters and waitresses, banquet captains, bar persons (bartenders), service bartenders, busboys (bussers), dishwashers, all cooks including dinner cooks, sous chefs, cook(s)in charge, night cooks, griddle cooks, fry cooks, and cook's helpers, pantry employees, cashiers, housemen, all maintenance (general repair) employees and

<sup>2</sup> All dates hereinafter are calendar year 2010.

<sup>&</sup>lt;sup>1</sup> Hereinafter referred to as the Board.

housekeepers/housekeeping employees, employed by the Employer at its Pleasanton, California facility; *excluding* all managerial and administrative employees, salespersons, office clerical employees, grounds maintenance employees (including mechanics), mechanical engineers, utilities employees, pro-shop employees, including merchandisers, cart staff and mechanics, and other golf and tennis personnel, guards, and supervisors as defined in the Act.

The Tally of Ballots served on the parties at the conclusion of the ballot count showed the following results:

Approximate number of eligible voters	61
Number of void ballots	0
Number of votes cast for Petitioner	
Number of challenged ballots	0
Valid votes counted plus challenged ballots	58

Thereafter, the Employer filed timely objections to the election, a copy of which was served on the Union by the Region.

## The Objections

#### Objection No. 1

In the period between the filing of the Petition and the conduct of Election, the Union, by its officers and agents, threatened certain employees that if they voted the Union out, they would be discharged, arrested, deported; and, alternatively, if they continued to be employed they would lose all of their benefits. These threats destroyed the laboratory conditions in which the Board conducts its elections (General Shoe Ccrp., 77 NLRB 124 (1948); Smithers Tire, 308 NLRB No. 012).

This objection raises material issues of fact or law that can best be resolved by a hearing.

# Objection No. 2

On the day of the election, April 2, 2010, the Union paid employees \$200 to gather at a meeting place and travel together to the polling place. Gifts to encourage employees to vote have been found by the Board to be objectionable conduct (Sun-rise Rehabilitation Hospital, 320 NLRB 212; Rite Aid Corp., 326 NLRB 924; Lutheran Welfare Services, 321 NLRB 915; Action Carting Environmental Service, 354 NLRB No. 084 (2009)).

This objection raises material issues of fact or law that can best be resolved by a hearing.

#### Objection No. 3

During the election, the Union stationed its officers and agents in the parking lot outside the polling place, where they campaigned among employees proceeding to vote, and they appeared to be making a list of employees who went in to vote. Union agents in the parking lot could see employees in the polling place, and vice versa. (Piggly-Wiggly #011, 168 NLRB 792 (1967); Pepsi-Cola Bottling, 291 NLRB 578; Hollingsworth Management Service, 342 NLRB No. 050 (2004); Tyson Fresh Meats, Inc., 343 NLRB No. 129.)

This objection raises material issues of fact or law that can best be resolved by a hearing.

### **Notice of Hearing**

**IT IS HEREBY ORDERED** that a hearing on Objections Nos. 1, 2, and 3 be held before a duly designated Hearing Officer of the National Labor Relations Board.

IT IS FURTHER ORDERED that the Hearing Officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues. Within fourteen (14) days from the issuance of said report, any party may file with the Board an original and one (1) copy of exceptions to such report, with supporting brief, if desired. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof, together with a copy of any brief filed, on the other party to the proceeding and with the undersigned. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing exceptions, may decide the matter forthwith upon the record or may make other disposition of the case.

**PLEASE TAKE NOTICE** that on May 6, 2010, at 9:00 a.m. PST, at the Oakland Regional Office, and continuing on consecutive days thereafter until completed, a hearing

pursuant to Section 102.69 of the Board's Rules and Regulations will be conducted before a hearing officer of the National Labor Relations Board upon the aforesaid objections, at which time and place the parties will have the right to appear in person, or otherwise, to give testimony and to examine and cross-examine witnesses with respect to said matters.

DATED April 26, 2010, at Oakland, California.

/s/ Alan B. Reichard

Alan B. Reichard, Regional Director National Labor Relations Board Region 32 1301 Clay Street, Suite 300N Oakland, California 94612-5211